Lahi references
Legis 44-06
Legis 20-6
Jk 285-14

File No. 7 of 1904-5
Serial Nos.

1904-05

GENERAL AND REVENUE SECRETARIAT.

(Legis)

Part A: Manuscript
for

Serial Nos. 2 - 7

G.R.S. 11] 1904.05

GENERAL AND REVENUE SECRETARIAT.

(legislation ~~Courts~~)

NOTES.

File No. 7 ~~40~~.

FILE HEADING.

Suits against Sureties for attached moveables, Subject No. 40 of the Representative Assembly Proceedings of 1903.

From

The Registrar of the Chief Court of Ashgore.

No. 45-8/30 Dated the 18th July 04 Received 21st July 1904.

Diary No. J 170.	Enclos. –	Spare Copies. –	Serial No. 2

BRIEF ABSTRACT OF LETTER.

Invites attention to the provisions of Sec 253 of the Civil Pro. Code Bill of the Govt. of India and the Comments thereon in the Select Committees report and states that in the absence of Specific instances of hardship caused by want of amendment of the existing provisions of the Section, the Judges do not think that any necessity for amendment has been made out.

NOTES AND ORDERS.

+ Sl. no (1) Flag P.

(+) Flag M

+ Flag O

This is a reply to this office No. 2647 of the 7th June last, wherein the Registrar was requested to favor Government with the opinion of the Judges of the Chief Court ~~of the Assistant~~ on Subject No. 40 of the Representative

NOTES—First sheet.

MGCPB—5,000—18-5-04

General and Revenue Secretariat.

File No. 7 of 1904.

Serial No.

Assembly Progs of 1903, viz, that when Courts for attached moveables do not produce the same, the parties are compelled to bring a suit against them which this increases litigation and that provision may therefore be made in the Civil Pro. Code to enable the parties to proceed against the sureties after decree on the execution side.

The attention of the Chief Court was also invited to Subject No. 52 of 1901 when a similar representation was made. and to the Government reply thereto. which enquiry would be made whether such cases were of frequent occurrence and required remedy

The Registrar now gives the reply.

Section 253 of the Civil Pro Code. states that when a person has before the passing of a decree in an original suit, become liable as surety for the performance of the same or any part thereof, the decree

NOTE—Contn. sheet.

General and Revenue Secretariat.

File No. 7 of 1904-05

Serial No.

may be executed against him to the extent to which he has become liable in the same manner in which a decree may be executed against a defendant, provided proper notice is given to the surety.

~~Notes for order~~

~~[illegible] 258.~~

Notes for order

6/8/04 WR 6.8.04

As section 153 stands at present, it applies only to the case of a person who stands surety for the performance of a decree passed therein. It does not apply to the case brought forward by the Representative Member, viz. that of a person to whose custody attached moveables of a judgment debtor are entrusted prior to sale or otherwise. If the amendment suggested by the Select Committee on the C.P.C. Bill be adopted,

MGCPB—10,000—19-4-04

Serial No.

then it would meet the case brought forward, as it comes under "restitution of property taken in execution of a decree."

The reply of the Chief Court is somewhat self-contradictory. They [illegible] that the Govt. of India have such an amendment under consideration, & yet proceed to say that any necessity for amendment in this respect has not been made out.

The letter may be recorded with the remark that the action to be taken by the Govt. of India for an amendment of S. 253 of the C.P.C. so as to make it [illegible] the enforcement of security given for the restitution of orders & the fulfilment of conditions, may be awaited.

Put up a draft reply.

Sd/- [illegible]

Sd/- with a draft

Sd/- Dhruva Rao 10.8.04

I agree. Draft [illegible] 10.8.04

[illegible] 10.8.04

293 10-8-04

917 12.8.04

NOTE—Contn. sheet.

MGCPB—10,000—19-1-04

1078/04 10.8.1904

General and Revenue Secretariat. | File No. 9 of 190 4

Serial No.

1038

would rather ask for statistics as to how many such cases did really occur during the last five years - & whether the parties had to file fresh suits in those cases - Such summary disposal of matters & what appears the Assembly does not lead to very good results. This may be borne in mind when the requisite statistics

15.VIII.04

To Branch III
Draft and please
16.8.1904

1503

Draft Sd, asking the Registrar C.C. for statistics.

19/8/04 - 19.8.04

Draft Approved
20/8/1904

3 'To the Registrar of the Chief Court No. 3496 & 20/8/04

Requests him to furnish Govt. with statistics as to the no. of cases which did really occur during the last 5 years in which the suits for attached movable refused to produce the same with information as to whether the parties in those cases had to file fresh suits.

NOTE—Contn. sheet.

MGCPB—10,000—19-4-04

Serial No. 4

From the Registrar of the Civil Court Nr. 2581/165 of 7/4/04.

Forwards a statement as required by the Courts of cases in which parties applied to produce attached moveables in all the 3 Divisions of Mysore, Bangalore & Shimoga for the official years between 1899-1900 & 1903-04 amounting to 127 being 25 per year on the average. and the Nos of cases in which parties had to get back their moveables thereby has been 16 being 3 per year on the average. (The statement has called for by the Dewan)

Paper for disposal -

7/11/04. 2981 17-11-04

Submitted to the Dewan Saheb thro' the Hon'ble Councillor

18.11.1904

Seen. This may be noted for consideration along with other desirable amendments after the Civil Procedure Code is amended by the Govt of India.

21-11-04

21.11.1904

2903/22.11.04.

I rather think that a case has been made out. Independently of the above we be taken after the

Serial No.

India I do not see why we should not take action whenever the circumstances warrant. The instances where property was required to be restored are indeed many & this not every year for such a purpose are not too few. On the whole action seems to be called for and moved by the 2nd course I consider these observations

To the 1st Committee 6.XII.04. [illegible]

1191
8-12-04.

& 7.12.1904

I am certainly not disposed to immediate action being taken if deemed expedient. The law has to be amended in regard to such of the matters as have already been noted, may be put into the amendment. The Dy Secy will kindly see. Prepare a draft Regulation. This may be submitted to the Diwan Saheb in the first instance for orders. 9/12/04 9.12.1904

NOTE—Contn. sheet.

3321 10.12.04

MGCPB—10,600—31-8-04.

Serial No.

Agreement with Commissioner

12.XII.04

To The Dy: Secy

13.12.1904

R. 14.12.04 Secy. What other matters connected with the amendment of the Civil Pro: Code have been noted. Look up files & Decrees R A. Procds; & bring up in person before Christmas if possible.

14-12-04

A draft Regn, & a letter to the A. Resident, are subd for approval. The letter explains the whole matter

13. Dec

Secy

Draft submitted & the Diwan Saheb

3.1.1905

3813/4.1.05.

On a demi official reference made to the Resident by the Secretary, the former replied as follows: —

MGCPB—20,000—1-11-04.

№ 366.

Bangalore, 21st January 1905.

My dear Dewan,

I have to answer your D. O. letter of the 15th instant with which you forwarded for consideration a draft letter to the First Assistant Resident enclosing certain proposals for amending the Code of Civil Procedure as in force in Mysore.

2. With respect to the amendments of sections 253, 315 of the Code, I have no objections to make or suggestions to offer.

3. As regards Section 310-A I would suggest a reference to the Report of the Select Committee on the Bill which was published in the Gazette of India dated 21st March 1903, Part V page 167. You will see that the Select Committee suggest an amendment of this section, and the amendment in my opinion is well worth your consideration.

Yours Sincerly,

(Signed) J. A. Bourdillon.

Sir P. N. Krishnamurtie K. C. I. E.,
Dewan of Mysore.

Copy

Dewan's order, d. 22. 1. 05

D. Secy. Bring up.

General and Revenue Secretariat. | File No. 7 of 1904/1905

Serial No.

*3-11-05

The papers having been received this day from from Mr Chamberlain, further action in the matter

The suggestion made by Sir James Bourdillon in favour of adopting the revised form of S. 310.A as in the Select Committee's Bill, seems a good one & has been given effect to in the fresh draft Regn herewith putting the letter of the A. Resident has also been modified suitably -

Draft Regn 3/11/05

Draft Submitted to the Hon'ble Sahib thro the Secretary

6.11.1905

692 6-11-05.

As the Draft Bill before the Council of India, the Select Committee have enlarged the scope of Section 310A in several material and desirable directions. The Resident's suggestion may be adopted by us with advantage. I agree to the amended draft

7.11.1905 7-11-05

*Reg B. 9535 10.11.05

NOTE—Contd. sheet

MGCPB—50,000—17-2-05

G.R.S. 12]

General and Revenue Secretariat. | File No. of 190

Serial No.

9771

Wanil - The original draft
should have been
forwarded as is usual when
cases are referred by a
Court

21.XI.05

(Copies of Ready correspondence are putup in the file)

To the Registrar

23.11.05

Anil
24-11-05

G.R.S. 121

Nagasaki
12. 11. 05

Dear Sir,

I beg to bring to your notice that the file relating to the further amendments of the Civil Procedure Code, submitted for the decision of the Government, does not contain the original draft letter sent up to the Residency, which had been obtained from

the first Assistant
Resident & forwarded
to you by Mr Shamu
Row — without it,
the file cannot be
submitted to ~~H~~ the
Dewan — I shall be
obliged by your sending
it by return post —

Yours obediently
B V Ramachandra Row

G.R.S. 191

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Sir

The original draft letter must be in the file alone. Perhaps the Superintendent D.O.E. did not go through the file minutely. It was then detached [illegible] Branch. The whole file as formed was sent to D.O.E.

N. B.—Should routine notes be written on small Slips, the notes must be copied, or silps pasted on this form.

JH 7/11/08

15/11/08

To the Superintendent D.O.E. for perusal. All the papers sent to the office are in that file, which please search once more. The first draft contains some pencil alterations and has been retyped. The present final draft

15 Nov

MGCPB—50,000—22-9-04

My dear Sonawara Iyer,

I send you the entire file — I do not find any draft in it at all without the first draft, it is difficult to say what changes have been made, & besides, the first draft sits enclosing draft Regulations have to go back to the Resy. I am sorry to trouble you but it is unavoidable

Yours

16/11/05 BV Lakshmanarao

As personally advised I have put up the draft Regulations as suggested by you & with modifications. I will go through this evening & explain what is proposed & how it differs from the previous one.

Yours

BVL

20/11/05

Note Mr. Sonawara Iyer 20/11/05 personally informed me that the first draft (to the Residency) had been destroyed as the same had been replaced by a revised draft

BVL
20.11.05

G.R.S. 171

GENERAL AND REVENUE SECRETARIAT.

Matter for Council Meeting to be held on the 9th Decr 05 at Bangalore —

SUBJECT.

Draft of a Regulation further to amend the Code of Civil Procedure of 1882. as in force in Mysore —

10248/15 1/2 Pr

CIRCULATED TO COUNCILLORS.

By Order,

Secretary.

25 : 11 : 1905.

Rajamanthra Pravina
1 C. Sreenivasaiengar Esqr
First Councillor.

Seen by the Councillor

2. Rao Bahadur
C. Madiah Esqr
Second Councillor —

MGCPB—1,200—8-305

8.5
25-11-05.

To the Registrar & be placed before Council BR 27.11.05

27/11/

Extract from the Proceedings of the 124th Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 9th Decr 1905.

II. *Subject--(Clause ii of the Schedule.)*

Draft of a Regulation further to amend the Code of Civil Procedure of 1882 as in force in Mysore.

Opinions of the Dewan and Councillors.

† Flag D.

The appended Draft† Regulation may be accepted and approved.

(Signed) P. N. Krishna Murti.
Dewan of Mysore.

14.12.1905

Secretary

14-12-05

General and Revenue Secretariat.

Leg File No. of 1905

Serial No.

BRIEF ABSTRACT OF LETTER.

Draft.

States that the judges of the Chief Court are of opinion that Sec 582 A of the British Indian Civil Procedure Code, which makes provision in the matter may be introduced into this State Code also

Legal

Please submit this in the file relating to proposed Amendment of Civil Procedure Code

NOTES AND ORDERS.

Amendment of the Civil Procedure Code.

~~Sections to be added for~~ So as to amend Sec 253 and to introduce a new Section after Sec 310, as before the Council. Perhaps it will be better to incorporate the present proposal

NOTES—First sheet.

MGCPB—30,000—17-2-05.

NOTE—Contn. sheet

GPB—50,000—23-10-05

Section No.

Note into the Draft letter that has to go to the Residency in the matter of the Draft Regulation that is to accompany the letter, to avoid a further amendment of the Code proposed with the view of introducing a new section as that proposed.

Submitted for orders with reference

18/12/05 SM 18/12/05

Please put up to other file if it is not actually under circulation or submission

SM 19/12/05

Subd. The other file referred to was submitted to the Dewan on the 15th instant after disposal in Council.

19.12.05 mule 19-12-05 Subd to the Secretary SM 20.12.05

Submitted to the Dewan Sahib thro the 1st Councillor. May this be put before Council?

22.12.1905

22.12.1905

The modification, or rather addition proposed is a desirable one. May be obtained and incorporated in the Amendment Regulation which passed through the Council

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04.

General and Revenue Secretariat. File No. of 190 5 T 1500

Serial No.

a few days ago —
& 23.12.1905
10447 / 23.12.05

10442 23/12/05:
Mr Mr has drawn
up much. If the II draft
will approve of Mr Name
his opp for both gov't together
but the one already passed
need not be delayed on account
of the other
to (2) Councillor 25.XII.05
& 27.12.1905

27/12/05 The proposed additions
etc. may be represented in the draft
Regulations which were
approved by the
Council
To Branch III
& 1500 get the papers relating to draft Regs
2/1/06

Council Clerk,
Please put up
the file copy to
DW
3/1/06

Mr Shah was sent
to the Secretariat on
the 15th inst.

Draft of (1) an addition to be made to the draft Regs already approved by Council & placed before the Secretary; & (2) a letter to the

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04

G.R.S. 12]

General and Revenue Secretariat.

File No. of 190

Serial No.

J.A Resident ~~Commissioning~~ submitting the address of Election & requesting its insertion in the said draft Regn, are subd. for approval.

Secy 5/1/06

Draft submitted by the Devan Saheb

10631 5.1.06

4.1.1906

Submitted to His Highness.

A draft Regulation to further amend the Code of Civil Procedure as in force in Mysore is herewith submitted. The draft letter to the Residency explains why Section 253 of the Code is proposed to be substituted by another, why new sections 310 A and 582 are necessary. The amendments are needed to obviate practical inconvenience experienced by suitors and are on the lines of the British Indian legislation.

2. The draft Regulation and the letter may be approved.

15.2.06

Record of Cases submitted for the Orders of His Highness the Maharaja.

14.2.06
577.

Subject.

Draft of a Regulation further to amend the Code of Civil procedure of 1882, as in force in Mysore.

Order.

22-2-06
560

Approved
~~KRW~~
20/2/06

21.2.06

Serial No.

5 | From The First Assistant to the Hon'ble the Resident in Mysore.

Pol. no. 684 & 27.2.06

Forwards for obtaining the sanction of the Govt: of India, a draft Regulation further to amend sections 253, 310, 315 & 582 of the Code of Civil Procedure of 1882.

6 | From The Same officer –

Letter no: 3646 dated the 26th June 1906

States that the Government of India have no objection to the proposed legislation.

Submitted with 2 clean copies of the draft Regulation which has now to be submitted to His Highness for formal sanction, prior to publication in the Gazette

CRD
28.6.06
6.7.06.
KH
6-7-06

Dewan

KH
6-7-06

9-7-06

KH
9-7-06

1328
9.7.06

NOTE—Contn. sheet

GPB—50,000—23-10-05

Submitted to His Highness.

The draft Regulation to further amend the Code of Civil Procedure 1882, has been approved by the Government of India and sanction may be accorded for its promulgation.

10/7/1905

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Sanction for promulgating:-Draft of a Regulation further to amend the Code of Civil Procedure of 1882as in force in Mysore.

42

Order.

Sanctioned

~~KRM~~

12/7/06

Sms 17-7-06

Dewan's order

Please issue

Sd CSB

14/7/06

Secy alone -

Let me see hereafter KR 16.7.06

Secy to Secy

16.7.06

C.P.D

24.7.06.

G.R.S. 12]

General and Revenue Secretariat.

File No. 7 of 1904-05

Serial No.	
	Subd: with a draft promulgating the Regulation.
	C.R.D. 24.7.06.
7	To The Compiler, Mysore Gazette - no: 195 dt 27.7.06 directs the promulgation of the above Regn amending the Code of Civil Procedure & its publication in three Successive issues of the Gazette -

Sl no 1

To

The Registrar
Chief Court

Dated 7th ~~May~~ June 1904
No 2647
J

Subject No. 40 of the
D.R.A. Progs of
1903

When Sureties for attached movables do not produce the same, the parties are compelled to bring a suit against them. This increases litigation. Provision may therefore be made in C.P. Code to enable the parties to proceed against the Sureties after decree on the execution side. (See Sec 253. Civil Pro. Code, as to sureties before judgment)

3.VI.04

With reference to the marginal representation has the honor to request that he will be so good as to bring the matter to the notice of the Chief Court. In this Connection, attention is invited to Subject No. 54 of 1901, when a similar representation was made

4/6/04
P/A Secretary

8 No. 2

J170 - Bangalore.
18th July 1904.

From

V. H. Rajaraõa Bhudaleã Esquire,
Registrar, Chief Court of Mysore.

To

B. K. Venkata Varadiengar, Esquire,
Secretary to the Govt of Mysore,
Gen: and Rev: Departments.

Sir,

With reference to your No. 2647 dated the 7th ultimo re subject No 40 of the D. R. A. Proceedings of 1903, I am directed to invite your attention to the provisions of section 253 of the Civil Pro-cedure Code Bill and the comments thereon in the Select Committee's Report (Vide pp: 182 and 225 of the Gazette of India dated 21st March 1903, Part V), and to state that, in the absence of any specific instances of hardship caused by want of amendment of the existing provisions of the section in question,

the

the Judges do not think that any necessity for amendment has been made out I am to add that the point may be considered if the proposed Bill becomes law in British India.

I have the honor to be,
Sir,
Your most obedient Servant;

Registrar.

Mm

G.R.S. 26]

File No. 7

Serial No. 3

Diary No. of letter replied to

No. J 496
Legis: 7-8

General and Rev. Secretariat,
(Legislative)
, *the* 20/8/ 1904

To

The Registrar of the Chief Court
of Mysore, Bangalore

Date of issue 20/8/04

Signed by Mr B K Venkatarama Iyengar

I am directed to acknowledge the receipt of his letter No. 458 dated the 18th July 1904, on subject No. 40 of the Representative Assembly Proceedings of 1903, has the honor to request that the Registrar will be so good as to furnish the Government with statistics as to the number of cases that did really occur during the last 5 years in which the Suretis for attached movable refused to produce the same. Also inform also whether the partie

over.

SUBJECT.

in such cases had to file
fresh suits may also be furnished
by us
20/8/04
Secretary

19/8/04 19.8.04

List of enclosures.

Copied by V. H. R. 20-8-04

Examined by 20.8.04

N. 2681/169 Jud. I

Bangalore, 7th Nov. 1904

From

V. A. Raja Ratna Mudr. Esq.
Registrar, Chief Court of Mysore

To

B. K. Venkataraadaiengar Esq
Secretary to Govt. Gl: + Rev. Depts.

Sir,

With reference to your docket
et no. J. 496 dated 20th August
Legis 7-3
1904. I am directed to forward here
with a statement showing the
number of cases that occurred
during the last 5 years in which
the sureties for attached move-
ables refused to produce the same
and in which fresh suits had
to be filed by parties.

I have the honor to be,
Sir,
Your most obedient servan

V Rajaratnam
Registrar

169

Statement shewing the number of cases in which the sureties for attached moveable refused to produce the same and the cases filed against such sureties for the past 5 yea ending 30th June 1904.

	Cases in which sureties for attached moveables refused to produce the same.				Cases in which parties in such cases had to file fresh suits.				Remarks.
	Bangalore Do.	Mysore Do.	Shimoga Do.	Total	Bangalore Do.	Mysore Do.	Shimoga Do.	Total	
1899-1900	"	9	14	23	"	"	2	2	
1900-01	"	10	9	19	"	"	1	1	
1901-02	"	2	14	16	"	"	1	1	
1902-03	"	4	24	28	"	"	8	8	
1903-04	"	7	34	41	"	"	4	4	
Total	"	32	95	127	"	"	16	16	
Average per year				25				3	

D. Nagathathnam
Registrar.

N 4516/173 2 yrs 5 Hyds. Des 7 Sp. A. V. from,

J 1712

Bangalore 15th December 1905.

The Registrar of the
Chief Court of Mysore

To,

The Secretary to the
Government of Mysore
General and Revenue Depts

Sir,

I have the honor to state that the Judges are of opinion that it is time that the provisions of Section 582 A of the Civil Procedure Code (British Indian Code) should be extended to Mysore also. The absence of such provision in the Local Procedure Code is likely to cause injustice to parties making bona fide mistakes as to stamps and some loss of revenue to Government by rejection

III Court. mail 15/12/05

reception of plants which might otherwise be admitted on proper stamps being supplied.

I have the honor to be

Sir,

Your most Obedient Servant,

[redacted]

Dy Registrar

To

The First Assistant to the Hon'ble
the Resident in Mysore.

Sir, Pol no 684 Dy 27.2.06
Encl

I am directed to state that it has been brought to notice by the members of the Mysore Representative Assembly, that sureties, to whose custody properties attached in the execution of decrees of civil courts are entrusted prior to sale, often do not produce such properties when called upon to do so, with the result that the parties aggrieved are obliged to have recourse to a regular suit against the defaulting sureties. This causes much inconvenience and hardship, and fosters litigation, as the statistics collected by the Durbar tend to show. Such cases are not covered by Section 253 of the Civil Procedure Code, which applies only to the cases of persons who stand surety for the performance of decrees or parts thereof. The Government of His Highness the Maharaja therefore propose to extend the scope of the section so as to make it applicable to security given for the restitution of property or the fulfilment of conditions, on the lines suggested by the Select Committee on the Civil Procedure Code Bill, now pending before the Indian Legislative Council.

2. Section 310 A, which was introduced in British India by Act V of 1894, and which enables judgment debtors to set aside sales on payment of their dues within 30 days of the sales, has not yet been introduced in Mysore; this and a number of other necessary additions and alterations having been left over to be adopted once for all, when the revised Bill now before the Indian Legislature should be finally passed into law. But as this event does not appear likely to happen in the near future, and as the necessity for a provision similar to that in section 310 A for the relief of judgment debtors has become pressing, and has been repeatedly urged on the Durbar, it is proposed now to adopt Section 310 A as revised by the Select Committee, leaving the other amendments to be dealt with later.

3. It is further proposed ~~that~~ to incorporate the provisions of Section 582 A as already enacted for British India ~~should be incorporated~~ in the local Code. The Chief Court of Mysore have represented that the absence of a similar provision in the Mysore Code of Civil Procedure is likely to result in injustice to parties making bona fide mistakes as to stamps, and also in some loss of revenue to Government by rejection of plaints which might otherwise be admitted on proper stamps being supplied.

4. With these explanations, I am to forward herewith a Draft Regulation

embodying the necessary changes, and to request that the sanction of the Government of India may kindly be obtained to its being promulgated as law.

I have &c.,

Secretary.

15.2.06

Welcome one
SW
27/2/06

Copies 27.2.06.
Examined SW
27/2/06

Draft.

A Regulation further to amend the Code of Civil Procedure as in force in Mysore.

Preamble.

Whereas it is expedient further to amend the Code of Civil Procedure 1882, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:-

Substitution of a new section for section 253 of the Civil Procedure Code.

1. For Section 253 of the Code of Civil Procedure, 1882, as introduced by Regulation II of 1884, and amended by RegulationsSII of 1887, VII of 1892, VI of 1901 and VI of 1904, the following shall be substituted, namely:-

Enforcement of liability of surety.

"253. Where any person has become liable as surety for the performance of any decree, or for the restitution of any property taken in execution of a decree, or for the payment of any money, or for the fulfilment of any condition imposed on any person under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees:

Proviso.

Provided that such notice in writing as the Court may in each case think sufficient has been given to the surety."

2. The following section shall be inserted after section 310, namely:-

Addition of new section 310.

Application to set aside sale on deposit of judgment debt.

"310 A(1). Where immoveable property has been sold under this Chapter in execution of a decree of any kind, including a decree in a suit for sale for the enforcement of a mortgage or charge, any person, either owning such property or holding an interest therein by virtue of a title acquired -

(a) where the property has been attached in execution of the decree, before such attachment, or

(b) where the property is sold in pursuance of a decree declaring its liability to sale in satisfaction of a mortgage or charge, before such decree,

may, at any time within thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court -

(i) for payment to the purchaser, a sum equal to five per centum of the purchase money, and,

(ii) for payment to the decree-holder, a sum equal to the purchase money, together with the costs of the attachment and sale:

Provided that, if a person applies under section 311 to set aside the sale of his immoveable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this section.

(2) Where immoveable property has

been sold under this Chapter by separate lots in execution of a decree, an application with regard to one or more of such lots may be made under this section.

(3) Any person making an application under this section shall be bound to implead the purchaser and the decree-holder as parties thereto; and, where the purchaser and the decree-holder are not so impleaded, the application shall be dismissed.

(4) Where any sale is set aside by an order made under this section, the property sold shall not be liable to be again attached in execution of the same decree unless such order is set aside in appeal or otherwise."

Amendment of Section 315 of the Code.

3. In Section 315 of the said Code, the figures and letter "310 A" shall be inserted after the word "Section" and before the figures "312".

Validation of certain memoranda of appeals or applications for review of judgment.

4. After Section 582 of the said Code, the following Section shall be added, namely:-

"582 A. If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation, but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application

Addition of a new section 582 A of the Code after

shall have the same effect and be as valid as if it had been properly stamped: Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court."

15.2.06

Compared by-
CRBraidon
6.7.06

No. 3646.

Fl. no: 7 of 04-05
S. no: 6.

FROM

R. C. H. MOSS KING, ESQ., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 26th June 1906.

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27-6-06
Lepo

SIR,

I am directed to acknowledge the receipt of Mr. Venkatavaradaiengar's letter Pol. No. 684 dated the 27th February 1906, forwarding for sanction the draft of a Regulation which the Durbar propose to enact to amend the Civil Procedure Code as in force in Mysore.

2. In reply, I am to say that the Government of India have no objection to the proposed legislation.

I have the honour to be,

Sir,

Your most obedient servant,

First Assistant Resident.

J.K.

Government of Mysore,

Legislative Department.

-:::::-

Read the following papers:-

Record in A
25-7-06

No. 195
Legis. 7-05-7 dated 25th July

Order thereon:- Ordered that the Draft Regulation to further amend the code of Civil Procedure as in force in Mysore which received the assent of His Highness the Maharaja on the 12th day of July 1906. be promulgated.

for Secy. to Govt., Gen. & Rev. Depts.

CRD
24.7.06
24-7-06

To - The Compiler, Mysore Gazette with a copy of Regulation No. III of 1906, for publication in three successive issues of the Gazette and for supply of 500 spare copies to this office

620 / Only Proof to Supdt.

REGULATION NO III OF 1906.

(Passed on the 12th day of July 1906)

A Regulation further to amend the Code of Civil Procedure as in force in Mysore.

Preamble. Whereas it is expedient further to amend the Code of Civil Procedure 1882, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:-

Substitution of new section for section 253 of the Civil Procedure Code.

1. For Section 253 of the Code of Civil Procedure, 1882, as introduced by Regulation II of 1884, and amended by Regulations II of 1887, VII of 1892, VI of 1901 and VI of 190 lowing shall be substituted, namely:-

Enforcement of liability of surety.

" 253. Where any person has become liable as surety for the performance of any decree, or for the restitution of any property taken in execution of a decree, or for the payment of any money, or for the fulfilment of any condition imposed on any person under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees:

Proviso. Provided that such notice in writing as the Court may in each case think sufficient has been given to the surety."

Addition of new section after Section 310

2. The following section shall be inserted after section 310, namely:-

chaser and the decree-holder as parties thereto; and, where the purchaser and the decree-holder are not so impleaded, the application shall be dismissed.

(4) Where any sale is set aside by an order made under this section, the property sold shall not be liable to be again attached in execution of the same decree unless such order is set aside in appeal or otherwise."

Amendment of Section 315 of the Code.

3. In Section 315 of the said Code, the figures and letter " 310 A" shall be inserted after the word "Section" and before the figures "312".

Addition of a new Section after Section 562 of the Code.

4. After Section 562 of the said Code, the following Section shall be added, namely:-

Validation of certain memoranda of appeals or applications for review of judgment.

" 562 A. If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped: Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court."

Sd/ V.P.Madhava Rao.

Dewan of Mysore.

Application to set aside sale on deposit of judgment debt.

"310 A (1). Where immoveable property has been sold under this Chapter in execution of a decree of any kind, including a decree in a suit for sale for the enforcement of a mortgage or charge, any person, either owning such property or holding an interest therein by virtue of a title acquired-

(a) where the property has been attached in execution of the decree, before such attachment, or

(b) where the property is sold in pursuance of a decree declaring its liability to sale in satisfaction of a mortgage or charge, before such decree,

may, at any time within thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court-

(i) for payment to the purchaser, a sum equal to five per centum of the purchase money, and,

(ii) for payment to the decree-holder, a sum equal to the purchase money, together with the costs of the attachment and sale;

Provided that, if a person applies under section 311 to set aside the sale of his immoveable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this section.

(2) Where immoveable property has been sold under this Chapter by separate lots in execution of a decree, an application with regard to one or more of such lots may be made under this section.

(3) Any person making an application under

REGULATION NO III OF 1906.

(Passed on the 12th day of March 1906)

Regulation further to amend the Code of Civil Procedure as in force in Mysore.

Preamble. Whereas it is expedient further to amend the Code of Civil Procedure 1882, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:-

Substitution of new section for section 253 of the Civil Procedure Code.

1. For Section 253 of the Code of Civil Procedure,1882, as introduced by Regulation II of 1884, and amended by Regulations II of 1887, VII of 1892, VI of 1901 and VI of 1904, the following shall be substituted,namely:-

Enforcement of liability of surety.

" 253. Where any person has become liable as surety for the performance of any decree, or for the restitution of any property taken in execution of a decree, or for the payment of any money, or for the fulfilment of any condition imposed on any person under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees:

Proviso. Provided that such notice in writing as the Court may in each case think sufficient has been given to the surety."

Addition of new section after Section 310

2. The following section shall be inserted after section 310,namely:-

"310

Application to set aside sale on deposit of judgment debt.

"310 A (1). Where immoveable property has been sold under this Chapter in execution of a decree of any kind, including a decree in a suit for sale for the enforcement of a mortgage or charge, any person, either owning such property or holding an interest therein by virtue of a title acquired-

(a) where the property has been attached in execution of the decree, before such attachment, or

(b) where the property is sold in pursuance of a decree declaring its liability to sale in satisfaction of a mortgage or charge, before such decree,

may, at any time within thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court-

(i) for payment to the purchaser, a sum equal to five per centum of the purchase money, and,

(ii) for payment to the decree-holder, a sum equal to the purchase money, together with the costs of the attachment and sale;

Provided that, if a person applies under section 311 to set aside the sale of his immoveable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this section.

(2) Where immoveable property has been sold under this Chapter by separate lots in execution of a decree, an application with regard to one or more of such lots may be made under this section.

(3) Any person making an application under

this section shall be bound to implead the purchaser and the decree-holder as parties thereto; and, where the purchaser and the decree-holder are not so impleaded, the application shall be dismissed.

(4) Where any sale is set aside by an order made under this section, the property sold shall not be liable to be again attached in execution of the same decree unless such order is set aside in appeal or otherwise."

Amendment of Section 315 of the Code.

3. In Section 315 of the said Code, the figures and letter " 310 A" shall be inserted after the word "Section" and before the figures "312".

Addition of new Section to Section 582 of the Code.

4. After Section 582 of the said Code, the following Section shall be added, namely:-

Validation of certain memoranda of appeals or applications for review of judgment.

" 582 A. If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation, but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped: Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court."

6.7.56

REGULATION No. III OF 1906.

(PASSED ON THE 12TH DAY OF JULY 1906.)

A Regulation further to amend the Code of Civil Procedure as in force in Mysore.

Whereas it is expedient further to amend the Code of Civil Procedure, 1882, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Preamble.

1. For section 253 of the Code of Civil Procedure, 1882, as introduced by Regulation II of 1884, and amended by Regulations, II of 1887, VII of 1892, VI of 1901 and VI of 1904, the following shall be substituted, namely :—

Substitution of new section for section 253 of the Civil Procedure Code.

"253. Where any person has become liable as surety for the performance of any decree or for the restitution of any property taken in execution of a decree, or for the payment of any money, or for the fulfilment of any condition imposed on any person under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees :

Enforcement of liability of surety.

Provided that such notice in writing as the Court may in each case think sufficient has been given to the surety."

Proviso.

2. The following section shall be inserted after section 310, namely :—

Addition of new section after section 310.

"310 A (1). Where immovable property has been sold under this Chapter in execution of a decree of any kind, including a decree in a suit for sale for the enforcement of a mortgage or charge, any person, either owning such property or holding an interest therein by virtue of a title acquired–

Application to set aside sale on deposit of judgment debt.

(a) where the property has been attached in execution of the decree, before such attachment, or

(b) where the property is sold in pursuance of a decree declaring its liability to sale in satisfaction of a mortgage or charge, before such decree,

may, at any time within thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court–

(i) for payment to the purchaser, a sum equal to five per centum of the purchase money, and,

(ii) for payment to the decree-holder, a sum equal to the purchase money, together with the costs of the attachment and sale ;

Provided that, if a person applies under section 311 to set aside the sale of his immovable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this section.

(2) Where immovable property has been sold under this Chapter by separate lots in execution of a decree, an application with regard to one or more of such lots may be made under this section.

(3) Any person making an application under this section shall be bound to implead the purchaser and the decree-holder as parties thereto ; and, where the purchaser and the decree-holder are not so impleaded, the application shall be dismissed.

(4) Where any sale is set aside by an order made under this section, the property sold shall not be liable to be again attached in execution of the same decree unless such order is set aside in appeal or otherwise."

3. In section 315 of the said Code, the figures and letter "310 A" shall be inserted after the word "section" and before the figures "312."

Amendment of section 315 of the Code.

4. After section 582 of the said Code, the following section shall be added, namely :—

Addition of new section after section 582 of the Code.

582 A. If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation, but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped : Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court."

Validation of certain memoranda of appeals or applications for review of judgment.

V. P. MADHAVA RAO,
Dewan of Mysore.